

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Edward Littles, Jr., #282020,)	C/A NO. 9:07-3760-CMC-BM
)	
Petitioner,)	
)	OPINION and ORDER
v.)	
)	
Warden, Broad River Correctional)	
Institution,)	
)	
Respondent.)	
_____)	

This matter is before the court on Petitioner's *pro se* application for writ of habeas corpus, filed in this court pursuant to 28 U.S.C. § 2254.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge Bristow Marchant for pre-trial proceedings and a Report and Recommendation ("Report"). On November 21, 2008, the Magistrate Judge issued a Report recommending that Respondent's motion for summary judgment be granted and this matter dismissed with prejudice. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. After receiving an extension of time to file objections, Petitioner filed objections to the Report on February 4, 2009.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by

the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and Petitioner's objections, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Petitioner argues in his objections that cause for default of several of his grounds for relief in this matter lies with certain alleged actions of the South Carolina Court of Appeals relating to his trial (and then appellate) counsel. However, Petitioner had ample opportunity to raise his allegations and concerns in either a motion for rehearing, *see, e.g.*, Attachment to Opposition and Ans. to M. for Summ. J. at 8 (Dkt. 40-4, filed July 7, 2008), or a petition for writ of certiorari to the South Carolina Supreme Court, *see* South Carolina Appellate R. 226(b)(4) (indicating that one area for certiorari consideration is "[w]here substantial constitutional issues are directly involved"). He filed neither, and therefore his claimed cause for default is lost. Petitioner's other objections are without merit.

Respondent's motion for summary judgment is **granted** and this Petition is dismissed with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
February 26, 2009